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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/960,557	10/31/1997	EUGENIO A. CEFALI	32892-00023	6174

7590 09/09/2003

Karen J Messick ESQ  
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EXAMINER

SPEAR, JAMES M

ART UNIT

PAPER NUMBER

1615

DATE MAILED: 09/09/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Interview Summary

Application No.  
08/960,557

Applicant(s)  
CEFALI, EUGENIO A.

Examiner  
JAMES M. SPEAR

Art Unit  
1615



All participants (applicant, applicant's representative, PTO personnel):

(1) JAMES M. SPEAR

(3) \_\_\_\_\_

(2) KAREN J. MESSICK

(4) \_\_\_\_\_

Date of Interview Aug 5, 2003

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy is given to 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No. If yes, brief description:

Claim(s) discussed: None

Identification of prior art discussed:

None

Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments:

Paper No. 23, a Power of Attorney, filed November 13, 2002 has been received and entered. Enclosed are copies of  
Paper No. 25, Notice of a Non Responsive Amendment and Paper No. 29, Notification that a Petition has been granted.  
The papers are being remailed to the address requested in Paper No. 23. The time period for response is restarted.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

i) ☒ It is not necessary for applicant to provide a separate record of the substance of the interview (if box is checked).

Unless the paragraph above has been checked, THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached

*James M. Spear*

JAMES M. SPEAR  
PRIMARY EXAMINER  
ART UNIT 1615

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required



UNITED STATES  
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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND  
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
WWW.USPTO.GOV

Paper No. 29

Karen J. Messick  
Kos Pharmaceuticals, Inc.  
1001 Brickell Bay Drive  
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Miami, Florida 33131

Date: July 14, 2003  
Application No. 08/960,557  
Filed: October 31, 1997  
Subject: **METHOD FOR TREATING HYPERLIPIDEMIA  
WITH INTERMEDIATE RELEASE NICOTINIC ACID  
COMPOSITION HAVING UNIQUE BIOPHARMACEUTICAL  
CHARACTERISTICS**

**ON PETITION**  
37 CFR 1.48(a)

Receipt is acknowledged of the petitions filed January 16, 2003, under 37 CFR 1.48(a) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that this non-provisional application, as filed, through error and without deceptive intent, improperly set forth the Inventorship, and accordingly, this application has been changed by the addition of **DAVID J. BOVA**. The application will be forwarded to the Office of Initial Patent Examination(OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

THURMAN K. PAGE

United States Patent and Trademark Office  
Technology Center 1600  
SPE, ART UNIT 1615  
CM1- 2B01  
703-308-2927

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The Notice of Abandonment mailed October 03, 2001 is withdrawn. The notice was mailed in error. Applicants' amendments filed with certificate of mailing dates of September 21, 2001, and May 06, 2002 are timely and have been placed in the application file. However the amendments are non-compliant.

The amendments to the claims filed on September 21, 2001 and May 06, 2002 do not comply with the requirements of 37 CFR 1.121(c) because of the reasons set forth in Paper No. 16, mailed March 21, 2001 and Paper No. 20, mailed November 06, 2001.

Amendments to the claims filed after March 1, 2001 must comply with 37 CFR 1.121(c) which states:

(c) Claims.

(1) Amendment by rewriting, directions to cancel or add: Amendments to a claim must be made by rewriting such claim with all changes (e.g., additions, deletions, modifications) included. The rewriting of a claim (with the same number) will be construed as directing the cancellation of the previous version of that claim. A claim may also be canceled by an instruction.

(I) A rewritten or newly added claim must be in clean form, that is, without markings to indicate the changes that have been made. A parenthetical expression should follow the claim number indicating the status of the claim as amended or newly added (e.g., "amended," "twice amended," or "new").

(ii) If a claim is amended by rewriting such claim with the same number, the amendment must be accompanied by another version of the rewritten claim, on one or more pages separate from the amendment, marked up to show all the changes relative to the previous version of that claim. A parenthetical expression should follow the claim number indicating the status of the claim, e.g., "amended," "twice amended," etc. The parenthetical expression "amended," "twice amended," etc. should be the same for both the clean version of the claim under paragraph (c)(1)(i) of this section and the marked up version under this paragraph. The changes may be shown by brackets (for deleted matter) or underlining (for added matter), or by any equivalent marking system. A marked up version does not have to be supplied for an added claim or a canceled claim as it is sufficient to state that a particular claim has been added, or canceled.

(2) A claim canceled by amendment (deleted in its entirety) may be reinstated only by a subsequent amendment presenting the claim as a new claim with a new claim number.

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Since the reply filed on September 21, 2001 and May 06, 2002 appears to be *bona fide*, applicant is given a TIME PERIOD of **ONE (1) MONTH** or **THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to submit an amendment in compliance with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

It is noted that prior actions have been mailed by this office to obtain properly amended claims. In order to expedite prosecution of this application and avoid confusion in determining the status of claims in this case it is suggested that the pending claims be canceled and new claims be submitted to correct issues raised in the prior office actions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M. Spear whose telephone number is 703 308 2457. The examiner can normally be reached on Monday thru Friday from 6:30 AM to 3 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page, can be reached on (703) 308 2927. The fax phone number for the organization where this application or proceeding is assigned is 703 305 3592 or 703 308 4556.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1235.

James M. Spear

January 8, 2003

*James M. Spear*  
JAMES M. SPEAR  
PRIMARY EXAMINER  
AU 1615